

Appl. No. 09/656,805
Amdt. Dated November 21, 2003
Reply to Office action of October 22, 2003

REMARKS

The examiner requires restriction between Group I : claims 18-36 drawn to a method of making a hearing device and Group II: claim 37 drawn to elements used to make a hearing device. Applicant hereby elects Group I: claims 18-36 for further prosecution on the merits without traverse.

In response to the examiner's statement that the amendment filed August 4, 2003 cancelled all the claims drawn to the elected invention and presented only claims drawn to a non-elected invention, Applicant respectfully disagrees. Claims 1-17, which were cancelled in the previous amendment, were never subject to a restriction requirement. Rather, applicant merely amended the pending claims to overcome the objections and/or rejections set forth in the previous Office action by rewriting the claims in accordance with MPEP Section 714.21 (c)(1). Thus, it is not clear why the examiner contends that claims 18-37 are not readable on the elected invention when no previous restriction requirement was issued and accordingly, no previous election was made. Even if the examiner contends that a constructive election was made, claims 1-17 were directed to a method, as are claims 18-36. Therefore, the amendment filed August 4, 2003 was responsive.

If there are any fees required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. 32955.

Respectfully submitted,
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